In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R. No. 114 of 2007 (O&M)
Decided on January 19,2007.

Lakhmir Singh -- Petitioner

vs.

Sarban Singh and others-- -- Respondents.

AND

C.R. No. 115 of 2007 (O&M)
Decided on January 19,2007.

Lakhmir Singh -- Petitioner

vs.

Sarban Singh and others-- -- Respondents.

Present: Mr. Arun Palli, Advocate, for the petitioner/plaintiff

Pritam Pal,J: (Oral)

The aforesaid two Civil Revisions i.e. Civil Revision No. 114 of 2007 and Civil Revision No.115 of 2007, filed under Article 227 of the Constitution of India, by the petitioner/plaintiff (hereinafter referred to as 'the petitioner'), arise out of one and the same orders dated September 02,2005 passed by Civil Judge (Junior Division) and November 15,2006, passed by Addl. District Judge, Patiala,whereby,both the Courts below dismissed the application of the petitioner, moved under Order 39 Rule 1 and 2 of C.P.C., for seeking an ad- interim injunction in a suit for Permanent Injunction, therefore, they are being disposed of by a common order in Civil revision No. 114 of 2007.

Without going into the details, suffice it to say that according to the petitioner, he had filed two suits for permanent injunction against the respondents. His earlier suit pertains to khasra No. 418 and latter pertains to khasra No. 419. While filing the latter suit, he

kept concealed factum of filing the earlier suit. Not only that according to him, there is a passage ' A.B.C.D' , through khasra No. 419 and the said passage extends to khasra No.418, which is owned and possessed by the petitioner. According to the petitioner, there is no passage in khasra No. 418 linking the aforesaid khasra No. 419,whereas according to the respondents, there is also a passage in khasra No. 418. It is also to add here that according to report dated October 11,1997, prepared by Halqa Kanungo, who had inspected and demarcated the spot on the direction of Civil Judge, Rajpura, there is no path/ passage in between khasra Nos. 418 and 419 in the record. Further, according to him as well as copy of *akash-sajra* placed on the file, there is a circular road *(phirni)*, which abuts the aforesaid two khasra numbers. A perusal of the file shows that there is also a report dated September 26, 2005 of one Karamjit Singh Thind, which was appointed as a Local Commissioner by the First Appellate Court. His report reads thus:-

"I, Karamjit Singh Thind was appointed as Local Commissioner to visit the spot and report regarding the actual position of the spot. Accordingly I have visited at the spot in the presence of both the counsel for the parties and parties were also present. Before inspecting the spot, the Sarpanch of the Gram Panchayat was called and she came present and the spot was inspected and I also took help from the site plan, supplied to me, which was previously available on the court file.

I have also prepared rough site plan, which is also attached herewith. The passage shown as A,B,C,D is kacha passage and this passage is being used by the public at large freely without any

abstraction. This passage ultimately is connected with the Pacca Road at point C & D as shown in the rough site plan. However, Sh.Lakhmir Singh appellant alleged at the spot that the people are used the passage without his consent. Hence this report.

The memo of presence of the both parties along-with their counsel is also attached herewith."

The suits filed by the petitioner are at the initial stage and evidence yet to be recorded. From the material placed on the file, the learned Courts below have rightly not found a prima facie case for granting ad interim injunction in favour of the petitioner. This Court also does not find any infirmity or illegality in the impugned orders. Hence both the Civil Revisions stand dismissed.

Before parting with this order, it is made clear that nothing stated in this order, shall be taken to be an expression of opinion on the merits of the case before the trial Court.

January 19,2007 (Pritam Pal)
RR Judge